

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8974 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

RM PATEL

Versus

DISTRICT DEVELOPMENT OFFICER

Appearance:

MR SURESH M SHAH for Petitioner

MR HS MUNSHAW for Respondent No. 1

MR PREMAL JOSHI, AGP for Respondent No. 2

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 25/04/2000

ORAL JUDGEMENT

In this petition under Article 226 of the Constitution, the petitioner has challenged the judgment and order dated 30.10.1990 passed by the Development Commissioner modifying the order of penalty which was imposed by the District Development Officer, Surat in disciplinary proceedings.

2. The petitioner was served with a chargesheet that the petitioner had committed the misconduct of abusing his superior officer. The petitioner submitted his reply which contained rude and impolite language. The Disciplinary Authority passed the order dated 19.9.1988 holding the petitioner to be guilty of the charge levelled against him and imposed penalty of withholding one increment with future effect. The petitioner filed appeal before the Development Commissioner. The appeal was partly allowed by modifying the penalty and deleting that part of the order by which the increment was to be withheld with future effect. In other words, in appeal the order of withholding one increment was maintained but it was to operate without future effect. It is against the aforesaid order that the petitioner has filed the present petition.

3. The learned counsel for the petitioner has submitted that the Disciplinary Authority has relied on the reply given by the petitioner and treated it as misconduct without giving the petitioner any chargesheet in respect of the said reply and that, therefore, the impugned penalty order was passed without giving the petitioner a reasonable opportunity of being heard and, therefore, even the penalty of stoppage of one increment without future effect could not have been imposed by the Disciplinary Authority or by the Development Commissioner.

4. The contention urged on behalf of the petitioner is misconceived. A correct reading of the order of the Disciplinary Authority as well as the order of the Development Commissioner makes it clear that since the charge against the petitioner was abusing his superior, rude and impolite language employed in his reply itself was treated as a corroborative piece of evidence against the petitioner and the petitioner was, therefore, not exonerated from the charge levelled against him. As regards the quantum of penalty, since the Development Commissioner has already deleted the future effect part and the only penalty which the petitioner has already undergone is stoppage of one increment without future effect, no interference by this Court is called for in exercise of its extraordinary jurisdiction under Article 226 of the Constitution.

5. The petition is, therefore, dismissed. Rule is discharged with no order as to costs.

April 25, 2000 (M.S. Shah, J.)
sundar/-

